DETAILED ACTION

Restriction Requirement

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-11, 13-16 and 21, drawn to a composition comprising at least one strontium cation, sitosterol or a plant extract containing same, and at least one mono-, one di- or one triglyceride of formula (I) disclosed in instant claim 1, and methods of making thereof.

Group II, claim(s) 17-18, drawn to a method of treating deficiencies of bone growth comprising administering said composition.

Group III, claim 19, drawn to a method of treating blood diseases comprising administering said composition.

Group IV, claim 20, drawn to a method of treating blood diseases comprising administering said composition as an adjunct to anticancer therapies.

The inventions listed as Groups I-III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: The common feature of the inventions of Groups I-III is a composition comprising at least one strontium cation, sitosterol or a plant extract containing same, and at least one mono-, one di- or one triglyceride of formula (I) disclosed in instant claim 1. However, this composition is a known product. Shakhidoyatov et al. (Chemistry of Natural Compounds, 1997, 33, p605-616, cited in PTO-892) discloses cottonplant leaves contain strontium (page 607,

line 27), sitosterol (page 610, line 11), and mono-, di- and triacylglycerols where the fatty acid of the glyceride is a C12-C18 fatty acid (page 611, lines 42-44). Therefore said composition is not the special technical feature of a single general inventive concept. The special technical feature of the invention of Group I is the specific composition with a specific strontium cationic compound and a specific chemical structure of the compound of said formula (I). The special technical feature of the invention of Group II is the specific method of treating deficiencies of bone growth with a specific composition with a specific strontium cationic compound and a specific chemical structure of the compound of said formula (I). The special technical feature of the invention of Group III is the specific method of treating blood diseases with a specific composition with a specific strontium cationic compound and a specific chemical structure of the compound of said formula (I). The special technical feature of the invention of Group IV is the specific method of treating blood diseases with a specific composition with a specific strontium cationic compound and a specific chemical structure of the compound of said formula (I) and anticancer therapies

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not

distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder. All claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. Until all claims to the elected product are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not

commensurate in scope with an allowable product claim will not be rejoined. See MPEP § 821.04(b). Additionally, in order to retain the right to rejoinder in accordance with the above policy, applicant is advised that the process claims should be amended during prosecution to require the limitations of the product claims. **Failure to do so may result in a loss of the right to rejoinder**. Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan S. Lau whose telephone number is 571-270-3531. The examiner can normally be reached on Monday - Thursday, 9 am - 4 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisors, Ardin Marschel can be reached on 571-272-0718 or Cecilia Tsang can be

reached on 571-272-0562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JSL

/Cecilia Tsang/
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